

**SUPREME COURT CALENDAR  
SAN FRANCISCO SESSION  
MAY 27, 28, and 29, 2003**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California, on May 27, 28, and 29, 2003.

**TUESDAY, MAY 27, 2003—9:00 A.M.**

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|-----|---------|--|
| (1) | S110662 | Southern California Edison v. Lynch ( <i>Chin, J., not participating; Rushing, J., assigned Justice Pro Tempore.</i> ) |
| (2) | S103340 | People v. Julian Reynoso} ( <i>Consolidated cases to</i>   |
| (3) | S103343 | People v. John Reynoso} <i>be argued together</i> )  |
| (4) | S105781 | People v. Montes   |

**1:30 P.M.**

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|-----|---------|--|
| (5) | S111138 | In re Celine R.  |
| (6) | S106586 | Mejia v. Reed  |
| (7) | S032832 | People v. Omar F. Martinez [ <i>Automatic Appeal</i> ] |

**WEDNESDAY, MAY 28, 2003—9:00 A.M.**

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|------|---------|--|
| (8)  | S096161 | Drouet v. Superior Court, County of San Francisco; Broustis (R.P.I.) |
| (9)  | S106440 | People v. Neal   |
| (10) | S106256 | Hassan v. Mercy American River Hospital                              |

**1:30 P.M.**

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|------|---------|---|
| (11) | S109642 | Guillory v. Superior Court, County of Contra Costa; People (R.P.I.)   |
| (12) | S094597 | People v. Lee   |
| (13) | S096831 | In re Lee Max Barnett on Habeas Corpus ( <i>Kennard, J., not participating; Pollak, J., assigned Justice Pro Tempore.</i> ) |

**THURSDAY, MAY 29, 2003—9:00 A.M.**

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| (14) | S094088 | People v. Sanders   |
| (15) | S102588 | DVD Copy Control Association v. Bunner ( <i>Kennard and Chin, JJ., not participating; Robie and Rivera, JJ., assigned Justices Pro Tempore.</i> ) |
| (16) | S105225 | People v. Floyd   |

**1:30 P.M.**

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|------|---------|--|
| (17) | S109902 | In re Eddie M.                                     |
| (18) | S107904 | In re Emiliano M.                                  |
| (19) | S034110 | People v. Mark C. Crew [ <i>Automatic Appeal</i> ] |

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GEORGE  
Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with Rule 18(c), California Rules of Court.

**SUPREME COURT CALENDAR  
SAN FRANCISCO SESSION  
MAY 27, 28, and 29, 2003**

The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

**TUESDAY, MAY 27, 2003—9:00 A.M.**

***(1) Southern California Edison v. Lynch, S110662 (Chin. J., not participating; Rushing, J., assigned Justice Pro Tempore.)***

#02-186 Southern California Edison Company v. Lynch, S110662. (9th Cir. Nos. 01-56879, 01-56993, 01-57020; 307 F.3d 794.) Request by the United States Court of Appeals for the Ninth Circuit for the answer to certified questions of state law pursuant to rule 29.5 of the California Rules of Court. As restated by the Court, the certified questions are: “(1) Did the Commissioners of the California Public Utilities Commission have the authority to propose the stipulated judgment in light of the provisions of Assembly Bill No. 1890 (Act of Sept. 23, 1996, 1996 Cal. Legis. Serv. 854, codified in Cal. Pub. Util. Code §§ 330–398.5)? (2) Do the procedures employed in entering the stipulated judgment violate the Bagley-Keene Open Meeting Act, Cal. Gov’t Code §§ 11120–11132.5? (3) Does the stipulated judgment violate § 454 of the Public Utilities Code by altering utility rates without a public hearing and the issuance of findings?”

***(2) People v. Julian Reynoso, S103340 and (3) People v. John Reynoso, S103343***

#02-34 People v. Julian Reynoso, S103340. (F034709; unpublished opinion.)  
Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses.

#02-34 *People v. John Reynoso*, S103343 (F034873; 94 Cal.App.4th 86.)

Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses.

*Julian Reynoso* and *John Reynoso* have been consolidated for argument in one time slot. They both present the following issue: Did the trial court make an adequate inquiry into the prosecutor's reasons for exercising a peremptory challenge against a prospective juror and properly uphold the validity of the challenge?

***(4) People v. Montes, S105781***

#02-99 *People v. Montes*, S105781. (C036904; 96 Cal.App.4th 518.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense. This case presents the following issue: When a defendant is found to have committed a crime for the benefit of a criminal street gang within the meaning of Penal Code section 186.22(b), and the substantive offense itself is punishable only by a determinate term, but the defendant receives an enhancement of 25 years to life under Penal Code section 12022.53(d) for the personal and intentional discharge of a firearm proximately causing death or great bodily injury to any person other than an accomplice, is the defendant subject to the minimum parole term provisions of section 186.22(b)(5) (which apply to a violation of section 186.22(b) while "in the commission of a felony punishable by imprisonment in the state prison for life"), or is the defendant subject to an enhancement of a specified term under section 186.22(b)(1)?

**1:30 P.M.**

***(5) In re Celine R., S111138***

#02-204 *In re Celine R.*, S111138. (F040063; 102 Cal.App.4th 717.) Petition for review after the Court of Appeal affirmed orders terminating parental rights. This case presents the following issues: (1) In applying the "sibling relationship" provision of Welfare and Institutions Code section 366.26(c)(1)(E) in relation to

the potential termination of parental rights, must the trial court consider the interests of all siblings or only the interests of the child who is the subject of the hearing? (2) Did counsel's joint representation of siblings at a permanency planning hearing give rise to either an actual or a potential conflict of interest calling for the appointment of independent counsel?

***(6) Mejia v. Reed, S106586***

#02-98 Mejia v. Reed, S106586. (H020771; 97 Cal.App.4th 277.) Petition for review after the Court of Appeal reversed the summary judgment in a civil action. This case presents the following issues: (1) May an interspousal transfer pursuant to a marital settlement agreement and dissolution judgment be set aside under the Uniform Fraudulent Transfer Act (Civ. Code, § 3439 et seq.), or is such a remedy precluded by operation of Family Code section 916(a)(2), which in relevant part provides that property received by one spouse in the division of community property is not liable to a debt incurred by the other spouse before or during the marriage? (2) If the Uniform Fraudulent Transfer Act does apply to property transfers incident to a marital dissolution judgment, did the Court of Appeal err in concluding that a stream of future child support payments, discounted to present value, could support a finding that the debtor was rendered insolvent by the transfer, for purposes of establishing a fraudulent transfer?

***(7) People v. Omar F. Martinez, S032832 [Automatic Appeal]***

This matter is an automatic appeal from a judgment of death.

**WEDNESDAY, MAY 28, 2003—9:00 A.M.**

***(8) Drouet v. Superior Court, County of San Francisco; Broustis (R.P.I.), S096161***

#01-57 Drouet v. Superior Court, County of San Francisco; Broustis (R.P.I.), S096161. (A092016; 86 Cal.App.4th 1237.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following question: Is the affirmative defense of retaliatory eviction (Civ. Code,

§ 1942.5) applicable in an unlawful detainer proceeding brought under the Ellis Act (Gov. Code, § 7060 et seq.) by a landlord assertedly seeking to go out of the rental housing business?

**(9) *People v. Neal, S106440***

#02-100 *People v. Neal, S106440*. (F036055; unpublished opinion.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Did defendant knowingly and voluntarily waive his *Miranda* rights (*Miranda v. Arizona* (1966) 384 U.S. 436), prior to confessing when the officer who obtained the waiver and confession had deliberately and repeatedly violated *Miranda* in an earlier interrogation by continuing to question defendant despite his invocations of the right to counsel so as to obtain impeachment material?

**(10) *Hassan v. Mercy American River Hospital, S106256***

#02-118 *Hassan v. Mercy American River Hospital, S106256*. (C026448; 96 Cal.Ap.4th 1333.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court limited review to the following issues: (1) Does the privilege accorded “any person” for communication of information “intended to aid in the evaluation of the qualifications, fitness, character, or insurability of a practitioner of the healing or veterinary arts” (Civ. Code, § 43.8) apply to hospitals as well as natural persons? (2) Is the privilege absolute or does it apply only to statements made in good faith?

**1:30 P.M.**

**(11) *Guillory v. Superior Court, County of Contra Costa; People (R.P.I.), S109642***

#02-172 *Guillory v. Superior Court, County of Contra Costa; People (R.P.I.), S109642*. (A096442; 100 Cal.App.4th 750.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. The court limited review to the following issue: Can a juvenile offender, who is to be tried as an

adult under Welfare and Institutions Code section 602(b) as amended by the Gang Violence and Juvenile Crime Prevention Initiative (Prop. 21, Primary Elec. (Mar. 7, 2000)), be prosecuted by indictment or only by the filing of an information after a preliminary examination?

***(12) People v. Lee, S094597***

#01-33 People v. Lee, S094597. (F028940; 85 Cal.App.4th 706.) Petition for review after the Court of Appeal modified and otherwise affirmed judgments of conviction of criminal offenses. The court limited the issues to the following questions: (1) In order to be subject to the punishment of life imprisonment for an attempt to commit willful, deliberate and premeditated murder under Penal Code section 664(a), must an aider and abettor personally have acted with premeditation and deliberation? (2) If so, what standard of prejudicial error applies to a failure to so instruct the jury?

***(13) In re Lee Max Barnett on Habeas Corpus, S096831 (Kennard, J., not participating; Pollak, J., assigned Justice Pro Tempore.)***

#02-60 Barnett on Habeas Corpus, S096831. Original proceeding. In this case, which is related to the automatic appeal in *People v. Barnett* (1998) 17 Cal.4th 1044, the court issued an order to show cause limited to the following issue: Should this court accept for filing, and consider the merits of a variety of, pro se filings from a capital inmate notwithstanding the fact that the inmate is currently represented by counsel?

**THURSDAY, MAY 29, 2003—9:00 A.M.**

***(14) People v. Sanders, S094088***

#01-21 People v. Sanders, S094088. (F033862; 84 Cal.App.4th 1211.) Petition for review after the Court of Appeal reversed judgments of conviction of a criminal offense. This case includes the following issues: (1) When the police obtain evidence during a warrantless search of the residence of two persons, and the police only subsequently learn that one of the residents was on parole and subject to a search condition, is the evidence obtained in the search admissible

against both residents, only the resident who was subject to the search condition, or neither resident? (2) Should this court reconsider the holding in *In re Tyrell J.* (1994) 8 Cal.4th 68?

***(15) DVD Copy Control Association v. Bunner, S102588 (Kennard and Chin, JJ., not participating; Robie and Rivera, JJ., assigned Justices Pro Tempore.)***

#02-27 DVD Copy Control Association v. Bunner, S102588. (H021153; 93 Cal.App.4th 648.) Petition for review after the Court of Appeal reversed an order granting a preliminary injunction. This case presents the following issue: Does a preliminary injunction under the Uniform Trade Secrets Act (Civ. Code, § 3426 et seq.) barring the posting of DVD de-encryption software on the Internet violate the First Amendment to the federal Constitution as a prior restraint on protected speech?

***(16) People v. Floyd, S105225***

#02-70 People v. Floyd, S105225. (F037295; 95 Cal.App.4th 1092.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense. This case includes the following issues: (1) Does the Substance Abuse and Crime Prevention Act of 2000 (Prop. 36, General Elec. (Nov. 7, 2000)), which requires probation and drug treatment rather than incarceration for defendants convicted of specified nonviolent drug offenses, apply to defendants who were convicted and sentenced prior to the act's effective date of July 1, 2001, but whose convictions were pending on appeal when the act became effective, or only to defendants convicted or sentenced on or after July 1, 2001? (2) If the latter, does limiting the application of Proposition 36 in this fashion deny a defendant whose conviction was pending on appeal on that date the constitutional right to equal protection of the law?

**1:30 P.M.**

***(17) In re Eddie M., S109902***

#02-173 In re Eddie M., S109902. (B151521; 100 Cal.App.4th 1224.) Petition for review after the Court of Appeal modified and affirmed an order in a wardship proceeding. This case presents the following issue: Can an order in a wardship proceeding be changed or modified under Welfare and Institutions Code section 777, as amended by the Gang Violence and Juvenile Crime Prevention Initiative (Prop. 21, Primary Elec. (Mar. 7, 2000)), on the basis of a violation of probation involving conduct amounting to a new criminal offense?

***(18) In re Emiliano M., S107904***

#02-127 In re Emiliano M., S107904. (G027919; 99 Cal.App.4th 304.) Petition for review after the Court of Appeal affirmed in part and reversed in part an order in a wardship proceeding. This case presents the following issue: Can an order in a wardship proceeding be changed or modified under Welfare and Institutions Code section 777, as amended by the Gang Violence and Juvenile Crime Prevention Initiative (Prop. 21, Primary Elec. (Mar. 7, 2000)), on the basis of a violation of probation involving conduct amounting to a new criminal offense?

***(19) People v. Mark C. Crew, S034110 [Automatic Appeal]***

This matter is an automatic appeal from a judgment of death.